

**JONEE HARDESTY**  
Claimant

**ST. LUKE'S HOSPITAL**  
Respondent

**SELF INSURED**  
Insurance Carrier

# KANSAS WORKERS COMPENSATION FUND

## ORDER

## APPEARANCES

## RECORD

## STIPULATIONS

## ISSUES

The Administrative Law Judge denied benefits because the claimant failed to prove she sustained personal injury by accident arising out of and in the course of her employment with the respondent. That is the sole issue now before the Appeals Board.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, the Appeals Board finds, as follows:

For the reasons expressed below, the Award of the Administrative Law Judge should be affirmed. The findings and conclusions of the Administrative Law Judge are correct and are adopted by the Appeals Board to the extent they are not inconsistent with the findings and conclusions specifically set forth below.

Claimant alleges injury on June 20, 1991, which allegedly caused pain in her low back, right leg and hip. Although she denied having prior low back problems, claimant consulted her personal chiropractor, Emerson A. Bunch, for low back and right leg pain on nine (9) separate occasions during the period of May 17, 1991 through June 17, 1991. Although Dr. Bunch does not know why claimant did not return to him after June 17, he believes she needed additional treatment. Because claimant is inexplicably unable to recall her low back and right leg problems before the alleged date of accident, her testimony can be given little weight. Likewise, the opinions of health care providers regarding causation based solely upon a history provided by claimant which is devoid of prior low back problems are suspect and not factually sound.

Because of the similarity of the symptomatology that existed immediately before and after the alleged accident, coupled with the finding that claimant's testimony can be given little weight, the evidence fails to establish that it is more probably true than not that claimant sustained personal injury by accident arising out of and in the course of her employment as alleged.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board the Award of Administrative Law Judge Steven J. Howard, dated September 6, 1994, should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Dennis L. Horner, Kansas City, KS  
Mark E. Kolich, Kansas City, KS  
Derek R. Chappell, Ottawa, KS  
Steven J. Howard, Administrative Law Judge  
George Gomez, Director